



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590  
JUN 18 2004

E1-886  
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REPLY TO THE ATTENTION OF

B-19J

David Navecky  
Section of Environmental Analysis  
Surface Transportation Board  
1925 K Street, NW  
Washington, DC 20423

Re: Docket No. AB-6 (Sub-No. 421X), *Burlington Northern and Santa Fe Railway Company - Abandonment Exemption*

Dear Mr. Navecky:

In accordance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR 1500-1508), and Section 309 of the Clean Air Act, the U.S. Environmental Protection Agency has reviewed an Environmental/Historic Report (Report) submitted by the attorneys for the Burlington Northern and Santa Fe Railway Company (BNSF). The Report addresses a petition for abandonment offered by BNSF for 1.60 miles of rail line in and near Brainerd in Crow Wing County, Minnesota.

Pursuant to a review of the Report, we understand that BNSF intends to remove the rails and crossties from the right-of-way (ROW), leaving the roadbed intact. If BNSF intends to remove track material, we feel the proposed abandonment raises several questions. To that end, we have the following comments which should be discussed in the forthcoming Environmental Assessment.

- Removal and ultimate disposal of rails and ballast should be conducted according to applicable environmental regulations;
- Per the July 3, 1984 Rebuttable Presumption Against Registration for three major wood preservatives under the Federal Insecticide, Fungicide, and Rodenticide Act, wood treated with creosote should be buried in a non-hazardous waste landfill unless otherwise required by the State of Minnesota;
- Removal of material should be accomplished by use of the ROW for access, along with existing public and private crossings, particularly in the area where several wetlands are located adjacent to the project area. We recommend silt fencing be placed along the wetlands prior to removal activities to reduce the chances of a state-listed threatened species, the Blanding's Turtle, moving into the project area. Also, by ensuring that project personnel review the Blanding's turtle information supplied by the Minnesota Department of Natural

Resources (MnDNR), the chances of a Blanding's turtle being harmed during the removal process will be greatly reduced;

- Storing and fueling of construction equipment should take place in upland areas, away from water bodies, floodplains or other sensitive habitat;
- Prevention and/or control of spills (i.e., fuels, lubricants or other pollutants) from construction equipment should be conducted according to applicable environmental regulations;
- Portions of the ROW which BNSF owns or intends to sell for trails use are recommended to be revegetated with native flora. Long-term benefits of this mitigation activity go beyond stormwater and soil protection to include development of habitat for wildlife, improved aesthetics, and decreased erosion;
- Consultation with the Minnesota State Historic Preservation Office (SHPO) should take place to ensure that the proposed abandonment will have no effect on any known sites or properties listed or eligible for listing in the National Register of Historic Places; and
- Consultation with the MnDNR consisted of a review by the Natural Heritage and Nongame Research Program which focuses only on rare plant or animal species or other significant natural features. This review does not constitute review or approval by MnDNR as a whole. Therefore, the U.S. EPA recommends the Regional Environmental Assessment Ecologist, Wayne Barstad, be contacted to facilitate a full review of the effects of this project on state endangered or threatened species or areas designated as critical habitat. We also recommend consultation with the U.S. Fish and Wildlife Service to determine the effects of this project on federally-listed endangered or threatened species or areas designated as critical habitat. We feel the Report is incomplete without the opinions of these agencies.

We look forward to receiving the Surface Transportation Board's Environmental Assessment regarding this abandonment. Should you have any questions, please do not hesitate to contact me or Kathleen Kowal of my staff at (312) 353-5206 or via e-mail at [kowal.kathleen@epa.gov](mailto:kowal.kathleen@epa.gov).

Sincerely,



Kenneth A. Westlake, Chief  
Environmental Planning and Evaluation Branch

cc: Michael A. Smith, Attorney for BNSF